

**SUBCHAPTER Q : POLLUTION PREVENTION:  
SOURCE REDUCTION AND WASTE MINIMIZATION  
§§335.471-335.480  
Effective December 25, 1995**

**§335.471. Definitions.**

The words and terms used in this subchapter have the meanings given in the Waste Reduction Policy Act of 1991, Senate Bill 1099, or the regulations promulgated thereunder. The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise. Further, the following words and terms, as defined herein, shall only have application to this subchapter.

**Acute hazardous waste** - Hazardous waste listed by the Administrator of the United States Environmental Protection Agency (EPA) under the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §6901 et seq.), because the waste meets the criteria for listing hazardous waste identified in 40 Code of Federal Regulations, §261.11(a)(2).

**Board** - The Texas Air Control Board.

**Commission** - The Texas Water Commission.

**Committee** - The waste reduction advisory committee established by the Texas Solid Waste Disposal Act, Health and Safety Code Annotated, §361.0215.

**Conditionally exempt small-quantity generator** - A generator that does not accumulate more than 1,000 kilograms of hazardous waste at any one time on his facility and who generates less than 100 kilograms of hazardous waste in any given month.

**Environment** - Water, air, and land and the interrelationship that exists among and between water, air, land, and all living things.

**Facility** - All buildings, equipment, structures, and other stationary items located on a single site or on contiguous or adjacent sites that are owned or operated by a person who is subject to this subchapter or by a person who controls, is controlled by, or is under common control with a person subject to this subchapter.

**Generator and generator of hazardous waste** - Have the meaning assigned by the Texas Solid Waste Disposal Act, Health and Safety Code Annotated, §361.131.

**Large-quantity generator** - A generator that generates, through ongoing processes and operations at a facility:

(A) more than 1,000 kilograms of hazardous waste in a month; or

(B) more than one kilogram of acute hazardous waste in a month.

**Media and medium** - Air, water, and land into which waste is emitted, released, discharged, or disposed.

**Pollutant or contaminant** - Includes any element, substance, compound, disease-causing agent, or mixture that after release into the environment and on exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer,

genetic mutation, physiological malfunctions, including malfunctions in reproduction, or physical deformations in the organism or its offspring. The term does not include petroleum, crude oil, or any fraction of crude oil that is not otherwise specifically listed or designated as a hazardous substance under §101(14)(A)-(F) of the environmental response law, nor does it include natural gas, natural gas liquids, liquefied natural gas, synthetic gas of pipeline quality, or mixtures of natural gas and synthetic gas.

**Release** - Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment. The term does not include:

(A) a release that results in an exposure to a person solely within a workplace, concerning a claim that the person may assert against the person's employer;

(B) an emission from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine;

(C) a release of source, by-product, or special nuclear material from a nuclear incident, as those terms are defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. §2011 et seq.), if the release is subject to requirements concerning financial protection established by the Nuclear Regulatory Commission under §170 of that Act;

(D) for the purposes of §104 of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §9601 et seq.), or other response action, a release of source, by-product, or special nuclear material from a processing site designated under the Uranium Mill Tailings Radiation Control Act of 1978 (42 United States Code, §§7912 and 7942) §102(a)(1) or §302(a); and

(E) the normal application of fertilizer.

**Small quantity generator** - A generator that generates through ongoing processes and operation at a facility:

(A) equal to or less than 1,000 kilograms but more than or equal to 100 kilograms of hazardous waste in a month; or

(B) equal to or less than one kilogram of acute hazardous waste in a month.

**Source reduction** - Has the meaning assigned by the federal Pollution Prevention Act of 1990, Pub.L. 101-508, §6603, 104 Stat. 1388.

**Tons** - 2,000 pounds, also referred to as short tons.

**Toxic release inventory (TRI)** - A program which includes those chemicals on the list in Committee Print Number 99-169 of the United States Senate Committee on Environment and Public Works, titled "Toxic Chemicals Subject to the Emergency Planning and Community Right-To-Know Act of 1986 (EPCRA, 42 United States Code Annotated, §11023), 313" including any revised version of the list as may be made by the Administrator of the EPA.

**Waste minimization** - A practice that reduces the environmental or health hazards associated with hazardous wastes, pollutants, or contaminants. Examples may include reuse, recycling, neutralization, and detoxification.

### **§335.472. Pollutants and Contaminants.**

The following pollutants and contaminants are subject to source reduction and waste minimization planning.

(1) all hazardous wastes generated;

(2) all chemicals which exceed threshold reporting requirements pursuant to Emergency Planning and Community Right-to-Know Act of 1986, §313.

**§335.473. Applicability.**

This subchapter applies to facilities which are required to develop a source reduction and waste minimization plan pursuant to the Waste Reduction Policy Act of 1991, Senate Bill 1099, or the regulations promulgated thereunder, including:

(1) all large quantity generators of hazardous waste;

(2) all generators other than large quantity generators and conditionally exempt small quantity generators as defined by Health and Safety Code, §361.431(3);

(3) persons subject to §313, Title III, Superfund Amendments and Reauthorization Act of 1986 (Emergency Planning and Community Right-to-Know Act (EPCRA), 42 United States Code, §11023). These TRI covered facilities would be required to develop source reduction and waste minimization plans for only the TRI listed chemicals that exceed threshold quantities established under EPCRA.

**§335.474. Source Reduction and Waste Minimization Plans.**

All persons identified under §335.473 of this title (relating to Applicability) shall prepare a five year (or more) source reduction and waste minimization plan which may be updated annually as appropriate according to the schedule listed in §335.475 (relating to Implementation Dates). Plans shall be updated as necessary to assure that there never exists a time period for which a plan is not in effect. Prior to completion of the plan and each succeeding plan, a new five-year (or more) plan shall be prepared. Plans prepared under paragraphs (1)-(3) of this section shall contain a separate component addressing source reduction activities and a separate component addressing waste minimization activities.

(1) With the exception of small quantity generators which are subject to paragraph (3) of this section, the plan shall include, at a minimum:

(A) an initial survey that identifies:

(i) for facilities described in §335.473(1), activities that generate hazardous waste; and

(ii) for facilities described in §335.473(3), activities that result in the release of pollutants or contaminants designated under §335.472 of this title (relating to Pollutants and Contaminants);

(B) based on the initial survey, a prioritized list of economically and technologically feasible source reduction and waste minimization projects;

(C) an explanation of source reduction or waste minimization projects to be undertaken, with a discussion of technical and economic considerations, and environmental and human health risks considered in selecting each project to be undertaken;

(D) an estimate of the type and amount of reduction anticipated;

(E) a schedule for the implementation of each source reduction and waste minimization project;

(F) source reduction and waste minimization goals for the entire facility, including incremental goals to aid in evaluating progress;

(G) an explanation of employee awareness and training programs to aid in accomplishing source reduction and waste minimization goals;

(H) certification by the owner of the facility, or, if the facility is owned by a corporation, by an officer of the corporation that owns the facility who has the authority to commit the corporation's resources to implement the plan, that the plan is complete and correct;

(I) identification of cases in which the implementation of a source reduction or waste minimization activity designed to reduce risk to human health or the environment may result in the release of a different pollutant or contaminant or may shift the release to another medium; and

(J) an executive summary of the plan which shall include at a minimum:

(i) a description of the facility which shall include:

(I) name of the facility;

(II) address;

(III) contact;

(IV) a general description of the facility; and

(V) Texas Air Control Board account number (TACB), Texas Water Commission (TWC) solid waste notice of registration number, TWC Wastewater permit number, United States Environmental Protection Agency (EPA) identification number (Resource Conservation and Recovery Act (RCRA) number), National Pollutant Discharge Elimination System (NPDES) permit number, and underground injection well code identification number.

- (ii) a list of all hazardous wastes generated and the volume of each;
- (iii) a list of all reportable TRI releases and the volume of each;
- (iv) a prioritized list of pollutants and contaminants to be reduced;
- (v) a statement of reduction goals;
- (vi) an explanation of environmental and human health risks considered in determining reduction goals;
- (vii) implementation milestones for individual project development;
- (viii) an implementation schedule for future reduction goals; and
- (ix) identification and description of cases in which the implementation of source reduction or waste minimization activity designed to reduce risk to human health or the environment may result in the release of a different pollutant or contaminant or may shift the release to another medium. Included in this description shall be a discussion of the change in characteristic of the normal waste stream or release and how it will be managed in that affected medium.

(2) The source reduction and waste minimization plan may also include:

- (A) a discussion of the person's previous efforts at the facility to reduce risk to human health and the environment or to reduce the generation of hazardous waste or the release of pollutants or contaminants;
- (B) a discussion of the effect changes in environmental regulations have had on the achievement of the source reduction and waste minimization goals;
- (C) the effect that events the person could not control have had on the achievement of the source reduction and waste minimization goals;
- (D) a description of projects that have reduced the generation of hazardous waste or the release of pollutants or contaminants; and
- (E) a discussion of the operational decisions made at the facility that have affected the achievement of the source reduction or waste minimization goals or other risk reduction efforts.

(3) The plans of small quantity generators shall include, at a minimum:

- (A) a description of the facility which shall include:
  - (i) name of the facility;

(ii) address;

(iii) contact;

(iv) general description of the facility; and

(v) TACB account number, TWC Solid Waste Notice of Registration number, TWC Wastewater Permit Number, EPA Identification number (RCRA number), NPDES permit number, and underground injection well code identification number.

(B) a list of all hazardous wastes generated and the volume of each;

(C) a list of all reportable TRI releases and the volume of each;

(D) a prioritized list of pollutants and contaminants to be reduced;

(E) a statement of reduction goals;

(F) information on environmental and human health risks, such as Material Safety Data Sheets or other available documentation, considered in determining reduction goals;

(G) implementation milestones for individual project development;

(H) an implementation schedule for future reduction goals; and

(I) identification and description of cases in which the implementation of a source reduction or waste minimization activity designed to reduce risk to human health or the environment may result in the release of a different pollutant or contaminant or may shift the release to another medium. Included in this description shall be a discussion of the change in characteristic of the normal waste stream or release and how it will be managed in that affected medium.

(J) Certification by the owner of the facility, or, if the facility is owned by a corporation, by an officer of the corporation that owns the facility who has the authority to commit the corporation's resources to implement the plan, that the plan is complete and correct.

(K) an executive summary of the plan which shall include at a minimum:

(i) a description of the facility which shall include:

(I) name of facility;

(II) address;

(III) contact;

(IV) EPA ID, TNRCC solid waste notice of registration number;

(V) primary SIC code;

(ii) a projection of the amount of hazardous waste that the facility will generate (based on what is reported as hazardous waste under §335.9 of this title (relating to Record Keeping and Annual Reporting Procedures Applicable to Generators)) at the end of the five year period that the plan is in place.

(iii) prioritized list of pollutants and contaminants to be reduced;

(iv) a list of source reduction activities associated with reductions of pollutants identified under subparagraph (D) of this paragraph.

(4) The executive summary may include:

(A) a discussion of the person's previous effort at the facility to reduce hazardous waste or the release of pollutants or contaminants through source reduction or waste minimization;

(B) a discussion of the effect changes in environmental regulations have had on the achievement of the source reduction and waste minimization goals;

(C) the effect that events the person could not control have had on the achievement of the source reduction and waste minimization goals; and

(D) a discussion of the operational decisions the person has made that have affected the achievement of the source reduction and waste minimization goals.

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Effective December 25, 1995

**§335.475. Implementation Dates.**

All facilities subject to this subchapter shall develop a source reduction and waste minimization plan. The implementation year shall be determined by the prior year's reported volumes of hazardous waste generated and/or total TRI releases. A facility once subject to this subchapter shall remain subject until it no longer meets the requirements of §335.473 of this title (relating to Applicability) or are exempted under §335.477 of this title (relating to Exemptions). Volumes for calculations will be based on total hazardous waste generated and/or total TRI releases. The executive summary shall be submitted to the commission and the board on the date the plan is required to be in place. Plan implementation will be according to the following schedule:

(1) The source reduction and waste minimization plan shall be in place, available for review, and shall be implemented no later than July 1, 1993 for:

(A) hazardous waste generators reporting 5,000 tons or more; or

(B) TRI facilities reporting 100 tons or more.

(2) The source reduction and waste minimization plan shall be in place, available for review, and shall be implemented no later than January 1, 1994 for:

(A) hazardous waste generators reporting less than 5,000 tons but more than or equal to 500 tons; or

(B) TRI facilities reporting less than 100 tons but more than or equal to 10 tons.

(3) The source reduction and waste minimization plan shall be in place, available for review, and shall be implemented no later than January 1, 1995 for:

(A) hazardous waste generators reporting less than 500 tons but more than or equal to 15 tons; or

(B) TRI facilities reporting less than 10 tons but more than or equal to 5 tons.

(4) The source reduction and waste minimization plan shall be in place, available for review, and shall be implemented no later than January 1, 1996 for:

(A) hazardous waste generators reporting less than 15 tons but more than or equal to 5 tons; or

(B) TRI facilities reporting less than 5 tons but more than or equal to 1 ton.

(5) The source reduction and waste minimization plan shall be in place, available for review, and shall be implemented no later than January 1, 1997 for:

(A) hazardous waste generators reporting less than 5 tons but greater than 1.102 tons (1,000 kilograms); or

(B) TRI facilities reporting less than 1 ton.

(6) After the effective date of this subchapter, any facility which becomes subject to the requirement to have a source reduction and waste minimization plan, either within 90 days prior to or at any time following the dates referenced in paragraph (1)-(5) of this section, shall have 90 days to have the plan in place and available for review.

**§335.476. Reports and Recordkeeping.**



All persons required to develop a source reduction and waste minimization plan for a facility under this subchapter shall submit to the commission, concurrent with implementation of the plan under §335.475 of this title (relating to Implementation Dates), an initial executive summary of such plan and a copy of the certification of completeness and correctness in §335.474(1)(H) of this title (relating to Source Reduction and Waste Minimization Plans). Within 30 days of any revision of such plan, a revised executive summary including a copy of a new certificate of completeness and correctness shall be submitted. All owners and operators required to develop a plan under §335.473(1) and (3) of this title (related to Applicability) shall also submit an annual report as defined in paragraphs (1), (2), and (3) of this section according to the schedule outlined in paragraph (4) of this section. Persons required to develop a source reduction and waste minimization plan for a facility under §335.473(2) of this title (related to Applicability) may meet the annual reporting requirements by submitting their annual waste summary required under §335.9 of this title (relating to Recordkeeping and Annual Reporting Procedures Applicable to Generators) and by submitting their hazardous waste reduction goals as required under §335.474(K)(ii) of this title (relating to Source Reduction and Waste Minimization Plans).

(1) The report shall detail the facility's progress in implementing the source reduction and waste minimization plan and include:

(A) an assessment of the progress toward the achievement of the facility source reduction goal and the facility waste minimization goal;

(B) a statement to include, for facilities described in §335.473(1) of this title (relating to Applicability), the amount of hazardous waste generated and, for facilities described in §335.473(3), the amount of the release of reportable pollutants or contaminants designated under the Texas Solid Waste Disposal Act, the Texas Health and Safety Code Annotated, §361.433(c) in the year preceding the report, and a comparison of those amounts with the amounts generated or released using 1987 as the base year.

(C) any modification to the plan.

(2) The report may include:

(A) a discussion of the person's previous effort at the facility to reduce hazardous waste or the release of pollutants or contaminants through source reduction or waste minimization;

(B) a discussion of the effect changes in environmental regulations have had on the achievement of the source reduction and waste minimization goals;

(C) the effect that events the person could not control have had on the achievement of the source reduction and waste minimization goals; and

(D) a discussion of the operational decisions the person has made that have affected the achievement of the source reduction and waste minimization goals.

(3) The report shall contain a separate component addressing source reduction activities and a separate component addressing waste minimization activities.

(4) The report and the executive summary of the plan shall be submitted according to the following schedule and annually thereafter.

(A) For all facilities meeting the specifications of §335.475(1) of this title (relating to Implementation Dates), the first report will be due on or before March 1, 1994. The report will cover calendar year 1993. Subsequent annual reports will be submitted on or before July 1 of each year.

(B) For all facilities meeting the specifications of §335.475(2), the first report will be due on or before July 1, 1995. The report will cover calendar year 1994.

(C) For all facilities meeting the specifications of §335.475(3), the first report will be due on or before July 1, 1996. The report will cover calendar year 1995.

(D) For all facilities meeting the specifications of §335.475(4), the first report will be due on or before July 1, 1997. The report will cover calendar year 1996.

(E) For all facilities meeting the specifications of §335.475(5), the first report will be due on or before July 1, 1998. The report will cover calendar year 1997.

(5) Base line data from the calendar year 1987 shall be used in developing each of the first reports referred to in paragraph (4) of this section.

(6) The report shall be submitted on forms furnished or approved by the executive directors of the commission and the board and shall contain at a minimum the information specified in paragraph (1) of this section. Upon written request by the facility, the executive directors may authorize a modification in the reporting period.

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#### **§335.477. Exemptions.**

(a) This subchapter does not apply to:

(1) conditionally exempt small-quantity generators; and

(2) facilities regulated by the Railroad Commission of Texas under the Natural Resources Code, §§91.101 or §141.012.

(b) Owners and operators of facilities listed in §335.473 of this title (relating to Applicability), may apply on a case-by-case basis, to the executive directors of the commission and the board for an exemption from this subchapter. The executive directors of the commission and board may grant an exemption if the

applicant demonstrates that sufficient reductions have been achieved. If an exemption is granted, it is valid only for the following year, but can be renewed, on an annual basis, by filing a new application. The executive directors' decision will be based upon the following standards and criteria for determining practical economic and technical completion of the plan:

- (1) the facility has reduced the amount of pollutants and contaminants being generated or released by 90% since the base year;
- (2) potential impact on human health and the environment of any remaining hazardous waste generated, or pollutant or contaminant released; and
- (3) a demonstration that additional reductions are not economically and technically feasible.

**§335.478. Administrative Completeness.**

The commission or the board may review a source reduction and waste minimization plan or annual report to determine whether the plan or report complies with this subchapter.

**§335.479. Enforcement.**

Failure to have a source reduction and waste minimization plan in accordance with this subchapter or failure to submit a source reduction and waste minimization annual report in accordance with this subchapter is a violation.

**§335.480. Confidentiality.**

(a) A source reduction and waste minimization plan shall be maintained at each facility owned or operated by a person and/or generator who is subject to this subchapter and shall be available to commission or board personnel for inspection. The source reduction and waste minimization plan is not a public record for the purposes of Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Texas Civil Statutes, Article 6252-17a).

(b) The executive summary of the plan and the annual report are public records. On request, the person and/or generator shall make available to the public a copy of the executive summary of the plan or annual report.

(c) If an owner or operator of a facility for which a source reduction and waste minimization plan has been prepared shows to the satisfaction of the commission or board that an executive summary of the plan, annual report, or portion of a summary or report prepared under this subchapter would divulge a trade secret if made public, the commission or board shall classify as confidential the summary, report, or portion of the summary or report.

(d) To the extent that a plan, executive summary, annual report, or portion of a plan, summary, or annual report would otherwise qualify as a trade secret, an action by the commission or board or an employee of the commission or board does not affect its status as a trade secret.

(e) Information classified by the commission or board as confidential under this section is not a public record for purposes of Chapter 424, Acts of the 63rd Legislature, 1973 (Texas Civil Statutes, Article 6252-17a), and may not be used in a public hearing or disclosed to a person outside the commission or board unless a court decides that the information is necessary for the determination of an issue being decided at the public hearing.